

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**September 25, 2001**

**DIVISION ONE**

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Mallano, J. and S. Beaux,  
Deputy Clerk.

Each of the following:

B141529 People v. Hall  
B142119 People v. Meadows  
B142364 People v. Reed  
B142450 People v. Meitzenheimer  
B143280 People v. Duffour  
B143462 People v. Hoare  
B143476 People v. Lopez  
B143592 People v. American Banker's Insurance Co.  
B143630 People v. Santellana  
B143909 People v. Duran  
B144048 People v. McNair  
B144510 People v. Ramirez  
B144880 People v. Carter  
B144993 People v. Loud  
B145254 People v. Butler  
B145340 People v. Silva  
B145444 People v. Solorio  
B145480 DCFS v. Joe Anne R. et al.  
B145539 People v. McKinney  
B145829 Punch et al. v. City of Compton  
B145999 People v. Gallegos  
B147260 People v. Mushonga et al.  
B147627 D.C.F.S. v. Teresa F.  
B147960 People v. Servin  
B147994 People v. Haley

DIVISION ONE (Continued)

Each of the following (continued):

B148138 People v. Tyson  
B148443 D.C.F.S. v. Carol C.  
B148777 D.C.F.S. v. Tammie W.  
B148304 People v. Michael C.  
B148957 D.C.F.S. v. Kenneth C.

Argument waived, cause submitted.

B143318 People  
v.  
Hinojos

Merits:

Argued by Richard Doctoroff for appellant and by Erika D. Jackson, deputy attorney general, for respondent. Cause submitted.

B143318 Lyons  
v.  
City of Los Angeles

Merits:

Argued by Robert H. Tourtelot for appellant and by Janet G. Bogigian for respondent. Cause submitted.

B145106 People v. Aguirre  
B151281 In re Aguirre on Habeas Corpus

Merits:

Argued by Conrad Petermann for appellant and by Robert M. Snider, deputy attorney general, for respondent. Cause submitted.

DIVISION ONE (Continued)

B144143     People  
              v.  
              Corrales

Merits:  
Argued by Cara DeVito for appellant and by Mary Sanchez, deputy attorney general, for respondent. Cause submitted.

B141159     People  
              v.  
              Hoy

Merits:  
Argued by Richard M. Doctoroff for appellant and by Juliet H. Swoboda, deputy attorney general, for respondent. Cause submitted.

B137341     Roche  
              v.  
              Pettibone

Merits:  
Argued by John Moriarity for appellant and by Wendy S. Albers for respondent. Cause submitted.

B140538     Labow  
B142397     v.  
              Hankin  
              Conservatorship of Levitt & Page

Merits:  
Argued by Evan D. Marshal for appellant and by A. George Glasco for respondent. Cause submitted.

Ortega, J. leaves the bench.

DIVISION ONE (Continued)

B143861      Kajiwara  
                 v.  
                 Neutrogena Corporation

Merits:  
Argued by Stuart A. Smith for appellant and by Keith W. Walden and  
Darren M. Harris for respondent. Cause submitted.

Ortega, J. returns to the bench.

Mallano, J. leaves the bench.

B133851      Tucker  
                 v.  
                 County of Los Angeles

Merits:  
Argued by Jennifer L. King for appellant-respondent County of L.A. and by  
Michael J. Piuze for respondent-appellant Tucker. Cause submitted.

Mallano, J. returns to the bench.

Spencer, P.J. leaves the bench.

B136391      Graves et al.  
                 v.  
                 Brum et al.

Merits:  
Argued by Lynne M. Yerkes for appellants and by David B. Pillemer for  
respondents. Cause submitted.

Spencer, P.J. returns to the bench.

Mallano, J. leaves the bench.

DIVISION ONE (Continued)

B138520     Haddad  
              v.  
              Northridge Hospital

Merits:

Argued by Edmund W. Clarke, Jr. for appellant and by Craig Hunter for respondent. Cause submitted.

B150167     Southern California Edison Company  
              v.  
              Superior Court, Los Angeles County  
              (City of Long Beach, r.p.i.)

Appearances:

Brad S. Phillips for petitioner and by Elizabeth P. Beazley for real party in interest. Matter continued to January 2002.

Court adjourned.

B128342     Hartford Casualty Insurance Company     (Not for Publication)  
              v.  
              Los Angeles Unified School District

The judgment is reversed as to Hartford's first cause of action for breach of contract and the matter is remanded for a retrial on that cause of action only. In all other respects the judgment is affirmed. Each party to bear its own costs.

Spencer, P.J.

We concur:    Ortega, J.  
                  Vogel (Miriam A.), J.

DIVISION TWO

B146166      People                                  (Not for Publication)  
v.  
Andrew Tucker

The true findings on the three prior serious felony conviction allegations are reversed, the sentence is vacated, and the matter is remanded for a new trial limited to the issue of the truth of the prior serious felony conviction allegations and for sentencing proceedings. In all other respects, the judgment is affirmed.

Nott, J.

We concur:   Boren, P.J.  
                      Todd, J.

B132103      Los Angeles County Department of      (Not for Publication)  
Children and Family Services  
v.  
Rochelle H. et al.  
In re Mercedes J. et al., Persons Coming Under the Juvenile C

The judgment is affirmed.

Nott, J.

We concur:   Boren, P.J.  
                      Todd, J.

[illegible]

The judgment is affirmed. Each party to bear their own costs.

Nott, Acting P.J.

We concur:    Cooper, J.  
                         Todd, J.

DIVISION TWO (Continued)

B146679      County of Los Angeles                      (Not for Publication)  
                 v.  
                 Jasper Bernard Jackson

The order of the trial court denying appellant's requested modification is affirmed. The order of the trial court granting County's request for modification is reversed. Each side shall bear their respective costs on appeal.

Nott, Acting P.J.

We concur:    Cooper, J.  
                 Todd, J.

B146454      People  
                 v.  
                 Cadavid

Filed order denying petition for rehearing.

DIVISION THREE

B142135      Lucy Hooper and Gloria Jean Evins                      (Not for Publication)  
                 v.  
                 Tene Healthcare Corporation, et al.  
                 Alvin L. Pittman, Objector and Appellant

The judgment is reversed. Alvin Pittman is awarded his costs on appeal.

Croskey, J.

We concur:    Klein, P.J.  
                 Aldrich, J.

DIVISION THREE (Continued)

B142853      Herbert Spolter and Pari Spolter                      (Not for Publication)  
                 v.  
                 David C. Cottone and Donna L. Cottone

The judgment is affirmed, and remanded solely for a determination of costs, because defendants are awarded their costs on appeal, including reasonable attorney fees on appeal, in an amount to be determined by the trial court, pursuant to Civil Code section 1354, subdivision (f).

Croskey, Acting P.J.

We concur:    Kitching, J.  
                 Aldrich, J.

B145592      People    (Not for Publication)  
                 v.  
                 Ruben Luis Staton

The judgment is affirmed, except that the October 5, 2000 precommitment credit award is modified to award appellant a total of 1,787 days of custody credit pursuant to Penal Code section 2900.5, plus 210 days of conduct credit pursuant to Penal Code section 4019. This modification is without prejudice to a determination by the California Department of Corrections, consistent with this opinion, that appellant is entitled to other appropriate credit which accrued during the period between the imposition of sentence on January 9, 1997, and October 5, 2000. The trial court is directed to forward a copy of an amended abstract of judgment, reflecting the above modified precommitment credit award, to the Department of Corrections.

Croskey, Acting P.J.

We concur:    Kitching, J.  
                 Aldrich, J.



September 25, 2001-Continued

### DIVISION THREE (Continued)

B147554      People                                  (Not for Publication)  
v.  
Bennie Bernard Hillman

The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Kitching, J.

B142462 People (Not for Publication)  
v.  
Vincent Chavers

The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Aldrich, J.

B135334 People (Not for Publication)  
v.  
Hamid K. Zadeh

The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Aldrich, J.

## DIVISION FOUR

B142402      Schultz      (Not for Publication)  
v.  
Union Bank of California

The judgment is affirmed insofar as it determines that Schultz has not fulfilled a requisite to receipt of annuity payments; that Schultz is not entitled to the restitution award; and as to summary adjudication on Schultz's claims of bad faith. The judgment is reversed insofar as it awards the Bank the Fulton Judgment and the Tobias II funds; interest on the award of attorney's fees in the bankruptcy Adversary Proceeding; and attorney's fees in this action. The matter is remanded for a determination of which is the prevailing party for the purpose of awarding attorney's fees, and for the award of such fees as appropriate. Schultz and the Bank are to bear their own costs on appeal.

Epstein, J.

We concur: Vogel (C.S.), P.J.  
Curry, J.

B143098 People (Not for Publication)  
v.  
Jones

The judgment is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.  
Hastings, J.

B145446 People (Not for Publication)  
v.  
Rodriguez

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.  
Curry, J.

DIVISION FIVE

Court convened at 8:00 A.M.

Present: Turner, P.J., Grignon, J., Willhite, J. (Assigned) and Zaida G. Heraldez, Deputy Clerk.

B147518      Los Angeles County, D.C.F.S.  
                         v.  
                         Miriam A. et al.

Merits:

Argued by Andrea R. St. Julian and Karen L. Christensen for appellants and by Angela Williams for respondent. Cause submitted.

Court adjourned.

B147518      Los Angeles County Department of      (Not for Publication)  
                         Children & Family Services  
                         v.  
                         Miriam A., et al.

The orders terminating parental rights are affirmed.

Willhite, J. (Assigned)

We concur:    Turner, P.J.  
                         Grignon, J.

DIVISION FIVE (Continued)

B143107 Harbor Marina LLC (Not for Publication)  
v.  
Golden Hills Properties LLC

For the reasons set forth above, the judgment is affirmed to the extent it imposed on the Harbor Marina the full property tax liability for its improvements on the office parcel. It is reversed in regard to the property tax on the land, and remanded to the trial court to enter a new and different judgment declaring that Harbor Marina's tax liability on the land is to be measured by its possessory interest in the land. (Code Civ. Proc., § 43.) Each party to bear its own costs on appeal.

Willhite, J. (Assigned)

We concur: Turner, P.J.  
Grignon, J.

B143582 People (Not for Publication)  
v.  
Patterson

The clerk of the superior court is directed to amend the abstract of judgment to reflect that the sentences for count 2 (robbery of Gary Kim) and count 6 (conspiracy to commit robbery) are stayed under Penal Code section 654 and to forward a corrected abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed.

Willhite, J. (Assigned)

We concur: Grignon, Acting P.J.  
Armstrong, J.

DIVISION SIX

[illegible]

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.  
Perren, J.

B148941 People (Not for Publication)  
v.  
Juarez

The judgment is affirmed.

Yegan, J.

We concur:    Gilbert, P.J.  
                         Coffee, J.

B146053      Avram                      (Not for Publication)  
v.  
Jackson

The judgment (order denying motion to compel arbitration) is affirmed with costs to Avram.

Yegan, J.

We concur: Gilbert, P.J.  
Perren, J.

September 25, 2001-Continued

## DIVISION SIX (Continued)

[illegible]

The judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.  
Perren, J.

B146987 People (Not for Publication)  
v.  
Hayes

We modify the judgment concerning count 16 to a one-year consecutive prison term, restrict the restitution fine pursuant to section 1202.4 to \$10,000, and impose mandatory state and county penalty assessments. The trial court shall prepare an amended abstract of judgment and forward it to the Department of Corrections. The judgment is otherwise affirmed.

Gilbert, P.J.

We concur: Yegan, J.  
Coffee, J.

B140899      Goebel      (Certified for Publication)  
v.  
City of Santa Barbara

The judgment is affirmed. Respondent shall recover its costs.

Coffee, J.

We concur: Yegan, Acting P.J.  
Perren, J.

## DIVISION SIX (Continued)

B143078 People (Not for Publication)  
v.  
Joy

We strike the conviction for receiving stolen property (count 9), stay sentence for the unlawful taking of a vehicle (count 3), and otherwise affirm. The trial court is directed to prepare an amended abstract of judgment accordingly and forward it to the Department of Corrections.

Gilbert, P.J.

We concur: Yegan, J.  
Perren, J.

## DIVISION SEVEN

B125132 Harper (Not for Publication)  
v.  
Thorn Apple Valley, Inc., et al.

The judgment of the superior court is affirmed. The parties to bear their own costs on appeal.

Woods, J.

We concur: Johnson, Acting P.J.  
Boland, J. (Assigned)